

## § 536.27

or instrumentality of the DA. However, the statute of limitations is tolled if a claim is filed with another agency of the Government and is forwarded to the DA within 6 months, or if the claimant makes inquiry of the DA concerning his or her claim within 6 months after it was filed with another agency of the Government. If a claim is received by an official of the DA who is not a claims approval or settlement authority under §§ 536.20 through 536.35, the claim will be transmitted without delay to the nearest claims office or JA office for delivery to such an authority.

## § 536.27 Procedures.

So far as not inconsistent with §§ 536.20 through 536.35, the procedures set forth in §§ 536.1 through 536.13 will be followed. Subrogated claims will be processed as prescribed in § 536.5(b).

## § 536.28 Law applicable.

(a) As to claims arising in the United States, its territories, commonwealths, and possessions, the law of the place where the act or omission occurred will be applied in determining liability and the effect of contributory negligence on claimant's right to recover damages.

(b) In claims arising in a foreign country, liability of the United States will be assessed by reference to general principles of tort law common to the majority of United States jurisdictions. Absolute liability and similar theories are not a basis for liability under this section. Damages will be determined under § 536.29. If the negligence of the claimant was a partial cause of the injury, loss or damage, recovery will be barred if the negligence of the claimant is greater than that of the United States. In traffic accident cases, questions of negligence, and the degree of the claimant's comparative negligence, will be evaluated based on the traffic and vehicle safety laws and regulations of the country in which the accident occurred, but only to the extent they are not specifically superseded or preempted by the United States military traffic regulations.

## 32 CFR Ch. V (7-1-02 Edition)

## § 536.29 Compensation for property damage, personal injury, or death.

(a) *Measure of damages for property claims*—(1) *General*. The measure of damages in property claims arising in the United States or its possessions will be determined in accordance with the law of the place where the incident occurred. The measure of damages in property claims arising overseas will be determined in accordance with general principles of United States tort law.

(2) *Proof of damage*. The information listed below (similar to that required by 28 CFR 14.4(c)) will be submitted by a claimant to substantiate a claim.

(i) Proof of ownership.

(ii) Detailed statement of amount claimed for each item of property.

(iii) Itemized receipt of estimate for all repairs.

(iv) Statement giving date of purchase, price and, where not economically repairable, the salvage value.

(3) *Appraisals*. The assistance of appraisers should be used in all claims where, in the opinion of the claims officer, an appraisal is reasonably necessary and useful in reaching an administrative settlement of claims.

(b) *Measure of damages in injury or death claims arising in the United States or its possessions*. Where an injury or an injury resulting in death arises within the United States or its possessions, the measure of damages will be determined in accordance with the law of the State or possession wherein the injury arises.

(1) The information listed below (similar to that required by 28 CFR 14.4(a)) will be submitted by a claimant to substantiate a wrongful death claim.

(i) Authenticated death certificate or other competent evidence showing date and cause of death and age of decedent.

(ii) Decedent's employment and occupation at time of death, including salary or earnings and duration of last employment or occupation.

(iii) Names, addresses, birthdates, kinship and marital status of survivors.

(iv) Identification of persons dependent on decedent for support at time of death and the degree of support provided.